

96TH CONGRESS  
2D SESSION

# S. 2283

To amend the Internal Revenue Code of 1954 with respect to the income tax treatment of earned income of citizens or residents of the United States earned abroad.

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 8 (legislative day, JANUARY 3), 1980

Mr. CHAFEE introduced the following bill; which was read twice and referred to the Committee on Finance

## A BILL

To amend the Internal Revenue Code of 1954 with respect to the income tax treatment of earned income of citizens or residents of the United States earned abroad.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PARTIAL EXCLUSION FOR EARNED INCOME FROM**  
4 **SOURCES WITHOUT THE UNITED STATES.**

5 (a) IN GENERAL.—Section 911 of the Internal Revenue  
6 Code of 1954 (relating to income earned by individuals in  
7 certain camps) is amended to read as follows:

1 "SEC. 911. EARNED INCOME FROM SOURCES WITHOUT THE  
2 UNITED STATES.

3 "(a) GENERAL RULE.—In the case of an individual  
4 who is—

5 "(1) BONA FIDE RESIDENT OF FOREIGN COUN-  
6 TRY.—A citizen of the United States and who estab-  
7 lishes to the satisfaction of the Secretary that he has  
8 been a bona fide resident of a foreign country or coun-  
9 tries for an uninterrupted period which includes an  
10 entire taxable year, or

11 "(2) PRESENCE IN FOREIGN COUNTRY FOR 17  
12 MONTHS.—A citizen or resident of the United States  
13 and who, during any period of 18 consecutive months,  
14 is present in a foreign country or countries during at  
15 least 510 full days in such period,

16 There shall be excluded from gross income and exempt from  
17 taxation under this subtitle amounts received from sources  
18 within a foreign country or countries (except amounts paid by  
19 the United States or any agency thereof) which constitute  
20 earned income attributable to services performed during the  
21 period of bona fide residence or during the 18-month period,  
22 whichever is appropriate.

23 "(b) DEFINITION OF EARNED INCOME.—For purposes  
24 of this section, the term 'earned income' means wages, sala-  
25 ries, or professional fees, and other amounts received as com-  
26 pensation for personal services actually rendered, but does

1 not include that part of the compensation derived by the tax-  
2 payer for personal services rendered by him to a corporation  
3 which represents a distribution of earnings or profits rather  
4 than a reasonable allowance as compensation for the personal  
5 services actually rendered. In the case of a taxpayer engaged  
6 in a trade or business in which both personal services and  
7 capital are material income-producing factors, under regula-  
8 tions prescribed by the Secretary, a reasonable allowance as  
9 compensation for the personal services rendered by the tax-  
10 payer, not in excess of 30 percent of his share of the net  
11 profits of such trade or business, shall be considered as  
12 earned income.

13       “(c) SPECIAL RULES.—For the purpose of computing  
14 the amount excludable under subsection (a)—

15               “(1) LIMITATIONS ON AMOUNT OF EXCLU-  
16       SION.—The amount excluded from the gross income of  
17       an individual under subsection (a) for any taxable year  
18       shall not exceed an amount computed on a daily basis  
19       at an annual rate of—

20                       “(A) \$50,000, or

21                       “(B) \$65,000, in the case of an individual  
22       described in subsection (a)(1), but only with re-  
23       spect to that portion of such taxable year occur-  
24       ring after the individual has been a bona fide resi-

1           dent of a foreign country or countries for an unin-  
2           errupted period of 3 consecutive years.

3           “(2) CONTRIBUTION TO YEAR IN WHICH SERVICES  
4           ARE PERFORMED.—For purposes of applying para-  
5           graph (1), amounts received shall be considered re-  
6           ceived in the taxable year in which the services to  
7           which the amounts are attributable are performed.

8           “(3) TREATMENT OF COMMUNITY INCOME.—In  
9           applying paragraph (1) with respect to amounts re-  
10          ceived from services performed by a husband or wife  
11          which are community income under community prop-  
12          erty laws applicable to such income, the aggregate  
13          amount excludable, under subsection (a) from the gross  
14          income of such husband and wife shall equal the  
15          amount which would be excludable if such amounts did  
16          not constitute such community income.

17          “(4) REQUIREMENT AS TO TIME OF RECEIPT.—  
18          No amount received after the close of the taxable year  
19          following the taxable year in which the services to  
20          which the amounts are attributable are performed may  
21          be excluded under subsection (a).

22          “(5) CERTAIN AMOUNTS NOT EXCLUDABLE.—No  
23          amount—

24               “(A) received as a pension or annuity, or

1           “(B) included in gross income by reason of  
2           section 402(b) (relating to taxability of beneficiary  
3           of non-exempt trust), section 403(c) (relating to  
4           taxability of beneficiary under a nonqualified an-  
5           nuity), or section 403(d) (relating to taxability of  
6           beneficiary under certain forfeitable contracts pur-  
7           chased by exempt organizations),  
8           may be excluded under subsection (a).

9           “(6) TEST OF BONA FIDE RESIDENCE.—A state-  
10          ment by an individual who has earned income from  
11          sources within a foreign country to the authorities of  
12          that country that he is not a resident of that country, if  
13          he is held not subject as a resident of that country to  
14          the income tax of that country by its authorities with  
15          respect to such earnings shall be conclusive evidence  
16          with respect to such earnings that he is not a bona fide  
17          resident of that country for purposes of subsection (a).

18          “(7) FOREIGN TAXES PAID ON EXCLUDED  
19          INCOME NOT CREDITABLE OR DEDUCTIBLE.—An indi-  
20          vidual shall not be allowed as a deduction or as a  
21          credit against the tax imposed by this chapter any  
22          credit for the amount of taxes paid or accrued to a for-  
23          eign country or possession of the United States, to the  
24          extent that such deduction or credit is properly allocable  
25          to or chargeable against amounts excluded from

1 gross income under this subsection, other than the de-  
2 duction allowed by section 217 (relating to moving ex-  
3 penses).

4 “(d) HOUSING ALLOWANCE.—

5 “(1) IN GENERAL.—In the case of an individual  
6 described in subsection (a), there shall be excluded  
7 from gross income, and exempt from taxation under  
8 this subtitle, in addition to any amounts excluded and  
9 exempt under subsection (a) the greater of—

10 “(A) the amount by which such individual’s  
11 housing allowance exceeds 20 percent of his  
12 earned income for the taxable year (determined  
13 without regard to such allowance), or

14 “(B) the amount by which such individual’s  
15 housing costs exceed 20 percent of his earned  
16 income for the taxable year (as so determined).

17 “(2) DEFINITIONS.—For purposes of this subsec-  
18 tion—

19 “(A) HOUSING ALLOWANCE.—The term  
20 ‘housing allowance’ means—

21 “(i) an amount paid to the individual by  
22 his employer which is designated by the em-  
23 ployer as paid for the purpose of defraying  
24 the individual’s housing costs during the

1           period during which such individual is out-  
2           side the United States, or

3           “(ii) compensation from sources without  
4           the United States in the form of the right to  
5           use property or facilities,

6           but does not include any amount paid by the  
7           United States or any agency thereof or any  
8           amount to the extent that such amount is lavish  
9           or extravagant under the circumstances.

10           “(B) HOUSING EXPENSES.—The term ‘hous-  
11           ing expenses’ means the reasonable expenses paid  
12           or incurred during the taxable year by or on  
13           behalf of an individual for housing for the individ-  
14           ual (and, if they reside with him, for his spouse  
15           and dependents) in a foreign country. The term—

16           “(i) includes expenses attributable to the  
17           housing (such as utilities and insurance), but

18           “(ii) does not include interest and taxes  
19           of the kind deductible under section 163 or  
20           164 or any amount allowable as a deduction  
21           under section 216(a).

22           “(3) SPECIAL RULE FOR SECOND FOREIGN  
23           HOUSEHOLD.—If an individual described in subsection  
24           (a) maintains a separate household outside the United  
25           States for his spouse and dependents and they do not

1       reside with him because of living conditions which are  
2       dangerous, unhealthful, or otherwise adverse, then the  
3       words 'if they reside with him' in paragraph (2)(B)  
4       shall be disregarded.

5       (b) CLERICAL AMENDMENTS.—

6           (1) The table of sections for subpart B of part III  
7       of subchapter N of chapter 1 of such Code is amended  
8       by striking out the item relating to section 911 and in-  
9       serting in lieu thereof the following:

          "Sec. 911. Earned income from sources without the United States."

10           (2)       Sections    43(c)(1)(B),    1302(b)(2)(A)(i),  
11       1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii)  
12       are each amended by striking out "relating to income  
13       earned by employees in certain camps" and inserting  
14       in lieu thereof "relating to earned income from sources  
15       without the United States".

16       SEC. 2. REPEAL OF DEDUCTION FOR CERTAIN EXPENSES OF  
17                   LIVING ABROAD.

18           (a) IN GENERAL.—Section 913 of the Internal Revenue  
19       Code of 1954 (relating to deduction for certain expenses of  
20       living abroad) is hereby repealed.

21       (b) CONFORMING AMENDMENTS.—

22           (1) The table of sections for subpart B of part III  
23       of subchapter N of chapter 1 of such Code is amended  
24       by striking out the item relating to section 913.



1           (2) Section 62 of such Code (relating to definition  
2       of adjusted gross income) is amended by striking out  
3       paragraph (14).

4   SEC. 3. EFFECTIVE DATE.

5       (a) GENERAL RULE.—Except as provided in subsection  
6       (b), the amendments made by this Act shall apply with re-  
7       spect to taxable years beginning after December 31, 1979.

8       (b) ELECTION OF PRIOR LAW.—

9           (1) A taxpayer may elect not to have the amend-  
10       ments made by this Act apply with respect to any tax-  
11       able year beginning after December 31, 1977, and  
12       before January 1, 1980.

13          (2) An election under this subsection shall be filed  
14       with the taxpayer's timely filed return for the first tax-  
15       able year beginning after December 31, 1978.

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